

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OHIO  
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC,	)	CASE NO. 1:19-cv-145
	)	
Plaintiff,	)	JUDGE DAN AARON POLSTER
	)	
v.	)	MAGISTRATE JUDGE
	)	THOMAS M. PARKER
SOUTH UNIVERSITY OF OHIO, LLC, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER SURRENDERING LEASED PREMISES TO ITS LANDLORD, HGF L.P.,  
RELIEVING INJUNCTION AND STAY AS AGAINST HGF L.P. AS TO THOSE  
LEASED PREMISES AND THE LEASE, AND GRANTING RELATED RELIEF**

This came before the Court during the status conference on March 8, 2019, in this case. Among the persons in attendance in-person or telephonically were, among others, Mark E. Dotorre, the receiver appointed in this case (the “Receiver”) under that certain *Order Appointing Receiver* dated January 18, 2019 [ECF No. 8, as amended by ECF No. 14) (the “Receiver Order”), and HGF L.P. (“HGF”). The Court has been informed as follows:

HGF, as landlord, and Argosy Education Group, LLC (“AEG”), as tenant, are parties to that certain *Lease Agreement* dated as of July 1, 2001 (as assigned to AEG pursuant to an *Assignment and Assumption of Lease* dated October 17, 2017) (the “Lease”). A copy of the Lease (without exhibits) is attached to the *Unopposed Motion of HGF L.P. to Intervene Under Federal Rule of Civil Procedure 24* (the “Intervention Motion”), which the Court granted.

Under the Lease, AEG leased a 75,000 square foot building, parking lot, and surrounding areas located at 7650 Mission Valley Road, San Diego, California (as more fully described in the Lease, the “Leased Premises”) that HGF owns, at which university classes were being offered by The Art Institute of California – San Diego (“TAIC – SD”) . Both of AEG and TAIC – SD are subjects of this receivership under the Receiver Order.

On March 7, 2019, the president of TAIC – SD notified HGF that the university campus at the Leased Premises will close at 5:00 p.m. (Pacific time) on March 8, 2019, that one or more keys to the Leased Premises will be delivered to HGF at about that time, and that from and after March 8, 2019, no students, faculty, or other personnel (e.g., of AEG or TAIC – SD) will be present at the Leased Premises.

At the status conference, the Court also was informed that (in light of the imminent closing of the university campus at the Leased Premises) the Receiver (on behalf of AEG and TAIC-SD) and HGF have agreed to the relief set forth below, so that HGF may better protect its rights and interests. Accordingly, it is hereby

ORDERED that:

- (1) Effective at 5:00 p.m. (Pacific time) on March 8, 2019,
  - (a) the Leased Premises shall be deemed surrendered voluntarily by AEG, as tenant under the Lease (and by TAIC – SD), to HGF, as landlord;
  - (b) all injunctive provisions and stays contained in the Receiver Order (including, without limitation, paragraphs 9, 10, 14, and, to the extent applicable, 20), including as it has been or hereafter may be amended, hereby are relieved and terminated as against HGF with respect to the Lease and the Leased Premises, such that HGF may exercise and enforce any and all rights and remedies relating to the Lease and the Leased Premises as are provided or permitted under the Lease and applicable law, all the same as if the Receiver Order had never been entered (including, without limitation, prosecuting the eviction proceeding that HGF commenced on December 14, 2018, and enforcing the judgment and writ of possession that HGF obtained on January 25, 2019, in the Superior Court of San Diego, California (as described more fully in the Intervention Motion));
- (2) HGF shall reasonably cooperate with the Receiver (on behalf of AEG, TAIC – SD, or both), or with the Receiver's designees, regarding the orderly disposition of any removable personal property or any student records that remain at the Leased Premises after the voluntary surrender in paragraph (1)(a) of this Order becomes effective; and

(3) This Court retains jurisdiction to enforce the terms and provisions of this Order.

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
THE HONORABLE THOMAS M. PARKER  
UNITED STATES MAGISTRATE JUDGE

Submitted by:

/s/ Jeffrey C. Toole

JEFFREY C. TOOLE (0064688)

toole@buckleyking.com

THEODORE M. DUNN, JR. (0024195)

dunn@buckleyking.com

BUCKLEY KING LPA

1400 Fifth Third Center

600 Superior Avenue East

Cleveland, Ohio 44114-2652

Telephone: (216) 363-1400

Facsimile: (216) 579-1020

*Attorneys for HGF L.P.*

No objection:

/s/ James W. Ehrman

MARY K. WHITMER (0018213)

mkw@weadvocate.net

JAMES W. EHRMAN (0011006)

jwe@weadvocate.net

WHITMER & EHRMAN LLC

2344 Canal Road, Suite 401

Cleveland, Ohio 44113

Telephone: (216) 771-5056

Facsimile: (216) 771-2450

*Attorneys for Mark E. Dottore, the Receiver for  
(among other entities) Argosy Education Group, LLC  
and The Art Institute of California – San Diego*